

of the hearings in the Judiciary Committee on the subject of the Supreme Court confirmation of Judge Sotomayor. Their meetings were both informative and respectful, and I think they appropriately reflected the traditions of the Senate. Both Judge Sotomayor and the judicial confirmation process were treated with the respect they deserve.

The Senate's constitutional role to advise and consent on Federal judicial nominations is one that all Senators take seriously. And I, like most Senators, have traditionally shown significant deference to the President's role in submitting to the Senate nominees for the Federal judiciary. It is a role that the Senate shares with the President. If a nominee was qualified by education, experience, and judicial temperament, then that nominee would likely be confirmed by the Senate, regardless of the political party of the President.

But in recent years, we have seen that standard dramatically altered. During the administration of President George W. Bush, for example, several well-qualified nominees from my State for positions in the Federal judiciary, including Charles Pickering, Michael Wallace, and Leslie Southwick, saw their nominations opposed because of political differences. For better or for worse, a new standard for evaluating judicial nominees has emerged.

As has been well documented during her confirmation process, Judge Sotomayor was confirmed to the U.S. Court of Appeals for the Second Circuit by the Senate on October 2, 1998. I voted in favor of her confirmation. However, a nomination to one of the Federal Circuit Courts of Appeals is not the same as a nomination to the Court of last resort, the highest Court in our land, the U.S. Supreme Court.

During her recent hearing, Judge Sotomayor was asked several questions regarding statements she had made in recent years. In writings and speeches, Judge Sotomayor repeatedly stated that a judge's personal experiences can and will impact judicial outcomes. She has also argued that judges should allow their personal sympathies and prejudices to influence their decision-making. She described the ideal of judicial impartiality as an aspiration she believes cannot be met in most cases. These statements raise serious concerns regarding the lack of commitment to the notion of equal justice under the law.

Judge Sotomayor's responses to questions about these comments have failed to alleviate my concerns about whether she would apply the law in an evenhanded manner. It is the responsibility of the Senate to make certain that those who are confirmed to the Supreme Court not only are fully qualified by reason of experience and training but also that they show a commitment to equal justice under the law. Some of Judge Sotomayor's statements during the last decade have

given me reason to question her fidelity to equal justice.

Unlike the Federal circuit court, where she has served since 1998, a Justice on the Supreme Court is not necessarily bound by existing legal precedent. If confirmed, there would be no higher court to deter Judge Sotomayor from making decisions that would become the binding law of the land. For these reasons, I intend to oppose her nomination.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Madam President, I ask unanimous consent to be recognized for up to 30 minutes, although I doubt I will take that long.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Madam President, I take to the floor to inform the Senate and my colleagues about how I intend to vote on the pending nomination of Supreme Court nominee Judge Sotomayor. I understand the path of least resistance for me personally would be to vote no. That is probably true anytime you are in the minority party and you lose an election. But I feel compelled to vote yes, and I feel this is the right vote for me and, quite frankly, for the country in this case.

Why do I say that? Well, elections have consequences. I told Judge Sotomayor in the hearing that if I had won the election, even though I wasn't running, or Senator MCCAIN had, she would probably not have been chosen by a Republican. We would have chosen someone with a more conservative background—someone similar to a Judge Roberts or Miguel Estrada. She is definitely more liberal than a Republican would have chosen, but I do believe elections have consequences.

It is not as though we hid from the American people during the campaign that the Supreme Court selections were at stake. Both sides openly campaigned on the idea that the next President would be able to pick some judges for the Supreme Court. That was known to the American people and the American people spoke.

In that regard, having been one of the chief supporters of Senator MCCAIN and one of the chief opponents of then-Senator Obama, I feel he deserves some deference on my part when it comes to his first selection to the Supreme Court. I say that understanding, under our Constitution, I or no other Senator would be bound by the pick of a President. But when you look at the history of this country, generally speaking, great deference has been given to that selection by the Senate.

While I am not bound to vote for Judge Sotomayor—voting no would be

the path of least political resistance for me—I choose to vote for Judge Sotomayor because I believe she is well qualified. We are talking about one of the most qualified nominees to be selected for the Supreme Court in decades. She has 17 years of judicial experience. Twelve of those years she was on the Second Circuit Court of Appeals. I have looked at her record closely. I believe she follows precedent; that she has not been an activist judge in the sense that would make her disqualified, in my view. She has demonstrated left-of-center reasoning but within the mainstream. She has an outstanding background as a lawyer. She was a prosecutor for 4 years in New York. Her record of academic achievement is extraordinary—coming up from very tough circumstances, being raised by a single mother, going to Princeton, being picked as the top student there, and doing an extraordinary job in law school. She has a strong work ethic. That all mattered to me. It is not just my view that her legal reasoning was within the mainstream. She received the highest rating by the ABA—the American Bar Association—as “well qualified.”

The reason I mention that is not because I feel bound by their rating, but during the Alito and Roberts confirmation hearings for the Supreme Court under President Bush, I used that as a positive for both those nominees. I feel, as a Republican, I can't use it one time and ignore it the other. So the fact that she received the highest rating from the American Bar Association made a difference to me.

Her life story, as I indicated before, is something every American should be proud of. If her selection to the Supreme Court will inspire young women, particularly Latino women, to seek a career in the law, that is a good thing, and I hope it will.

On balance, I do believe the Court will not dramatically change in terms of ideology due to her selection. Justice Souter, whom I respect as an individual, has been far more liberal than I would prefer in a judge. I think Justice Sotomayor will not be any more liberal than he. On some issues, quite frankly, she may be more balanced in her approach, particularly when it comes to the war on terror, the use of international law, and potentially the second amendment. But time will tell. I am not voting for her believing I know how she will decide a case. I am voting for her because I find her to be well qualified, because elections matter, and because the people who have served along her side for many years find an extraordinary woman in Judge Sotomayor, and I confirm their findings.

What standard did I use? Every Senator in this body, at the end of the day, has to decide how to give their advice and consent. One of the things I chose not to do was to use Senator Obama's standard when it came to casting my vote for Judge Sotomayor. If those who